REMARKS

The Examiner is requested to reconsider the application in view of the foregoing Amendment and the following Remarks.

Claims 187-200, 202, 205-209, 211, 213, 214, 216-238, 240-251, 299, 300 and 304-312 were pending. The Examiner has withdrawn claims 304-306 and 310-312 from examination in the most recent Office Action dated April 4, 2008. Claims 187, 225, 241, 304 and 306 are amended by this amendment. Claims 264-281 and 287-293 are cancelled as drawn to unelected inventions. New claims 313-322 and 323-331 are presented herewith.

Applicant gratefully acknowledges the suggestion of the Examiner (Office Action, at 19) to present claims in the same format and claim structure as the claims of U.S. Patent 6,594,635. Applicant's new claims 313-322 are submitted to do exactly that, and it is submitted that claims 313-322 are clearly in order for allowance. Support for amended claims 313-322 is found in the application at ¶¶ [0080], [0092] and [0147], [0153], [0172] [0176]-[0189].

In addition, Applicant has presented new claims 323-331 which are similar in format and structure to the suggested new claims 313-322 (omitting claims 316 and 318) but in which claim 323 and dependent claims are modified to more closely align with language from claim 187.

A. Restriction/Election Requirement

In view of the submission of new claims 313-331 in the same format and claim structure as the claims of U.S. Patent 6,594,635, Applicant respectfully submits that rejoinder of any of the previously withdrawn claims which are directed at the same subject matter as new claims 313-322 and 323-331 is appropriate. In particular, claims 186 and 252-263 and 301-302, and 304, fall within the category of “a market for a class of financial products and a predetermined pricing schedule for intermediation services providing credit for transaction fees” which was Group II identified in the Office Action mailed November 3, 2005 and which is the group of claims which have been prosecuted since then. See, in particular, claim 186 at lines 23-30; claim 252 at lines 3-10; and claim 304 at lines 2-10, which contain language relating to “a market for a class of financial products and a predetermined pricing schedule for intermediation services providing credit for transaction fees”.

Applicant believes that rejoinder of previously withdrawn claims 186; 252 and dependent claims 253-263 and 301-302; and 304 is appropriate, and requests reconsideration and withdrawal of the prior restriction requirement with regard to these claims.

B. Rejection under 35 USC §112, second paragraph

Claims 187, 225 and 241 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

matter which Applicant regards as the invention. The Office Action states, “Claim 187, does not ‘generate a pricing schedule’. In fact, nothing is being generated.” In response, the claims (and claim 304) have been amended to explicitly recite “generating” or “generated” and outputting a pricing schedule to respond to this issue.

Applicant respectfully submits that the claims as submitted were definite, as a person of ordinary skill in the art would understand outputting a pricing schedule to mean any type of output, including generating data or text, creating a data and/or text file, displaying on a screen, and/or printing.

The Office Action suggests that “nothing is being done with the fees in the claim limitations,” however the “fees” in claim 187 are used to determine credits in calculation of a pricing schedule (claim 187, line 4); and the pricing schedule is used to determine the price for computerized intermediation services (claim 187, lines 10-11).

The claims are in compliance with 35 USC §112, second paragraph, and withdrawal of the rejection is requested.

C. Rejection under 35 USC §101

Claims 187-200, 202, 205-209, 211, 213, 214, 216-238, 240-251, 299, 300 and 307-309 were rejected under 35 USC §101 as directed to non-statutory subject matter. The Office Action rejects claims 187, 213, 225 and 241 as an abstract idea. The Office Action says there is no useful, concrete and tangible result.

Broadly, the present invention is a solution to resolve a fundamental problem in the markets for loans and lines of credit, and insurance and reinsurance. The problem can be summarized as inadequate and difficult-to-access information. As a consequence there are no current (i.e. "real-time") data-flows. The absence of real-time data flows prevents all market participants and regulators from determining, or discovering, pricing or relevant transaction terms and performance. This problem contributes to market illiquidity, inefficient risk pricing, and operating inefficiencies. The present invention provides a system that provides incentives for market participant provide fuller disclosure of pricing and risk in exchange for credits against fees or in exchange for transactional data and is intended to solve serious problems in the financial markets.

The cataclysmic shocks now coursing through the United States financial system are the result of the exact problems that the present invention is intended to solve. The near-bankruptcy, followed by U.S. Government takeover, of Freddie Mac, Fannie Mac, AIG, and Washington Mutual, and the bankruptcy of Lehman Brothers Bank, all of which occurred in the last month, have all been traced to inaccurate pricing of the risk in subprime mortgage backed securities. Numerous other financial fatalities, ranging from the takeover of Bear Stearns, the sale of Merrill Lynch, and enormous financial losses by many companies also occurred due to the inaccurate pricing of the risk in subprime mortgage backed securities.

Officials within the U.S. Treasury have signaled the importance of information and transparency in capital markets. In a speech before the Euromoney Bond Investors Congress in London on February 27, 2008, Phillip Swagel, Assistant Treasury Secretary for Economic Policy, commented on the U.S. economy. He observed that providing better information will likely be one of the main recommendations that will come from the analysis that the Treasury is undertaking into the underlying reasons for the housing and credit market crisis of 2007-2008. He noted that a lack of transparency and easy access to information is at the heart of the disruption that has affected both market participants and more broadly the global economy. For this reason, the Treasury is primarily focusing on the lack of availability and use of information about the quality of the mortgages underlying MBS, CDOs and the range of related instruments, as well as ways to improve market discipline in the areas of disclosure and due diligence. Limited access to and limited demand for information throughout the securitization chain facilitated lax underwriting standards. Market participants, Swagel noted, had the incentive to demand such information but, because of expectations about continued home price increases, there was a reduced level of due diligence.

The news the week of September 29, 2008 showed that jobless claims rose to a 7 year high; that home prices are down 16% from a year ago; the Dow Jones Industrial Average stock market index has dropped over 500 points twice this month. These are real world problems, which are directly linked to the financial problems caused by inaccurate pricing of the risk in subprime mortgage backed securities.

The present invention is a real world solution that would help to avoid a repeat of the problems now being experienced by the United States financial system. The claims of the present application are all directed systems that provide incentives for market participants to disclose pricing and risk by giving them credits against fees or transactional data, which, if it had been in widespread use, would have helped avert many of the current problems in the financial markets. The present invention is directed at mechanisms for price discovery in loans, lines of credit, insurance, reinsurance and markets for related financial products.

M.P.E.P. §2106(IV)(C)(2)(2) states that:

1. There is a "USEFUL RESULT" if the utility of an invention is (i) specific, (ii) substantial and (iii) credible;

2.. There is a "TANGIBLE RESULT" if the the process claim sets forth a practical application . . . to produce a real-world result;

3. There is a "CONCRETE RESULT" if the the process has a result that can be substantially repeatable or the process must substantially produce the same result again.

The Office Action asks whether there is a specific, substantial and credible utility due to a question about whether “outputting” and “intermediation services” have utility because of a concern over a useful result arising from the operations, and the view that the result of the invention is a pricing schedule which is considered a non-tangible result. (Office Action at p. 4). Applicant notes that the claims are not merely about

“outputting”, “intermediation services”, or a “pricing schedule”, but are instead directed at systems that provide incentives for market participants to disclose pricing and risk by giving them credits against fees or transactional data, which, if it had been in widespread use, would have helped avert many of the current problems in the financial markets.

The Office Action argues that, “The pricing schedule is not tied to a real-world meaning such as a list of prices for services or products.” The claimed pricing schedule is a list of prices for services or products. The claim explicitly states “a pricing schedule for … services” not for “anything”.

One embodiment of the invention in its entirety is defined in claim 186 and components of the invention are claimed in claims 187, 213, 225 and 241. These claims are directed at systems which enable price discovery in loans, lines of credit, insurance, reinsurance and markets for related financial products. This is a *specific, substantial and credible utility.* If use of the invention had been in place prior to the current financial system problems, it could have reduced or avoided much of the current problems. That there are significant problems in the financial system is undeniable. The specification and claims of the present invention are clearly directed at solving those problems. The claimed invention has a very *specific, substantial and credible* utility.

In particular, claim 187 is directed at “*providing computerized intermediation services* according to the pricing schedule” (claim 187, line 10) in two sectors, namely

origination and secondary trading of a financial product. Claim 188 specifies that information is captured in providing the intermediation services and offered for sale.

Claim 189 specifies that intermediation transaction fees are credited against the purchase cost of access fees for the information.

Claim 213 is directed at a *data processing system* to provide intermediation data processing services Claims 221 and 223 specify that information is obtained in providing the intermediation services and offered for sale.

Claim 225 is directed at a *method of providing intermediation services* in which information is captured in providing the intermediation services and offered for sale under a pricing schedule that provides price reduction for information as intermediation transaction volume increases.

Claim 241 213 is directed at a *data processing system* to provide intermediation data processing services in which information is captured in providing the intermediation services and offered for sale.

The claims are all for specific processes and are consistent with the invention defined in newly presented claims 313-322, and 323-331 which are in the same format and claim structure as the claims of previously granted U.S. Patent 6,594,635.

Claim 186 and 252-263 and 301-302, and 304 (requested to be rejoined) have the same *specific, substantial and credible utility.*

The Office Action also questions whether there is a useful, tangible result due to a question about whether there is any assurance that the steps of the claims will result in a pricing schedule being output and how it will be output and fees paid and fees payable (Office Action at p. 5). Applicant believes that the question posed does not really raise a §101 issue. The claims define specific intermediation services and data processing systems, which most preferably are directed at services and systems in which information is captured in providing the intermediation services and offered for sale under a pricing schedule that provides price reduction for information as intermediation transaction volume increases. The claims clearly recite the pricing schedule output and clearly recite "fees payable" for transactions. The pricing schedule and fees are predictable and repeatable, and therefore, concrete. The assurance that the steps of the claims will result in a pricing schedule being output is that the claims say that those steps will occur. The hardware and software implementation of the system will be required to follow these steps to operate within the scope of the patent.

Applicant's claims are not directed at abstract mental steps. They are directed at systems involving buying and selling of mortgages, debts, insurance, and other financial products. Intermediation services involving lending/loan trading, offering lines of credit/lines of credit trading and insurance/reinsurance are being provided. This is concrete activity. When someone buys something, it is not "going on in someone's mind." System users trigger the calculation of fees and the gneration of a pricing schedule. The claimed invention is useful. It is practical. It has real world results. It is concrete and repeatable.

This application has been pending for over nine years, and the April 4, 2008 Office Action is the first time that a §101 issue has been raised in this case. The invention as described in detail in the specification clearly provides a useful, concrete and tangible result. There has never been any §101 issue in the past. The very similar application now issued as U.S. Patent 6,594,635 has issued claims which are similar in many respects to the present claims (and specifically are very similar to claims 313-322 of this application).

It is respectfully submitted that the claimed invention has a useful, concrete and tangible result. The claimed invention is directed to patentable subject matter. The claims are in compliance with 35 USC §101, and withdrawal of the rejection is requested.

D. Rejection under 35 USC §102(e)

Claims 187, 188, 213, 241 243, and 245 were rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 5,966,700 to Gould, et al. Reference was made to col. 4, lines 46-64; col. 5, line 20 to col.6, line 43, Figs. 7A-7C, and 8A and col. 7 lines 11-49;and col. 7, line 50 to col. 8, line 18.

Applicant respectfully does not agree with the use of language of the claims of the present application to describe the disclosure of Gould (Office Action at 6-9). This approach to describing Gould is essentially an improper “hindsight” analysis, using the

disclosure of the present invention to characterize Gould in ways that would not be possible by reading Gould and describing its disclosure.

Gould discloses a computer system for sharing of mortgage application data from a mortgage originator to a funding institution such as a Federal Home Loan Bank, with concurrent management of the allocation of mortgage pool risk between the mortgage originator and the funding institution. Gould does not disclose any type of transaction fees associated with use of the system, or any types of credits that can be earned by use of the system, or using earned credits in a second sector or market or to purchase information. Gould discloses that the system can be used by the mortgage originator to access "rate and fee schedules", which are mortgage rates and fees from funding institutions (Col. 7, lines 11-20). The "rate and fee schedules" of Gould are mortgage rates and fees, not *credits for transaction fees*.

Claim 187 specifies: "the schedule providing credits for transaction fees paid by a party for intermediation of transactions in a first sector for redemption against fees payable by the party for intermediation of transactions in a second sector".

Claim 188 specifies: "the offering [of information] being under a pricing schedule providing price reductions for the information as fees increase for intermediation services provided for transactions.

Claim 213 specifies: “routines that record credits for transaction fees paid by a party for intermediation of transactions in a first sector for redemption against fees payable by the party for intermediation of transactions in a second sector.”

Claim 241 specifies: a pricing schedule generated to provide providing price reductions for the information as fees increase for the intermediation services provided for transactions in the first sector.

Claim 243 specifies: to record a portion of fees recorded for the intermediation of transactions in the first sector as credits for redemption against transaction fees for transactions in the second sector. “

Claim 245 specifies: “to record a portion of fees recorded for the intermediation of transactions in the first sector as credits for redemption against transaction fees for transactions in the second sector”.

Gould lacks these key elements of Applicant’s invention.

Claims 187, 188, 213, 241, 242, and 245 specify that the transaction credits are earned in connection with transactions in a first sector and are applied as credits for purchase of *transaction services in a second sector* (claims 187, 213, 243, 245) or for information (claims 188, 241). There is no disclosure in Gould of earned transaction credits in one sector being usable in a different sector or transaction to obtain a price discount.

There is no disclosure in Gould of *credits for transaction fees* or *credits for redemption against transaction fees* as specified in claims 187, 213, 243, 245.

There is no disclosure in Gould of pricing schedule providing price reductions for the information as fees increase for intermediation services provided for transactions as specified in claims 188 and 241.

There is no disclosure in Gould of pricing schedule providing price reductions for the information as fees increase for intermediation services provided for transactions as specified in claims 188 and 241.

These latter two points are corroborated by the Office Action itself, at page 9, where it is stated that Gould ***fails to disclose*** a “pricing schedule” that provides “that transaction fees for the intermediation of transactions in the second sector are to be credited against an access fee for research information describing the financial products”.

Thus, Gould does not anticipate the claimed invention, and the rejection under 35 U.S.C. §102(e) should be withdrawn. If this rejection is repeated, it is requested that the specific text relied on in Gould as anticipatory be identified, as a reading of the cited sections of Gould do not disclose the above elements.

In the Office Action, at p. 7, the above discussed claim elements are considered to be “not functionally related” to the claimed invention, and that “descriptive material will not distinguish the claimed invention from the prior art in terms of patentability.”

The quoted claim language functionally specifies the specific and critical elements of the claimed invention. The quoted language cannot simply be ignored in evaluating the scope of the claim. As stated in M.P.E.P. §2111: “During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification."

Even more on point is M.P.E.P. §2106’s instruction that:

> Finally, when evaluating the scope of a claim, every limitation in the claim must be considered. USPTO personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered. See, e.g., *Diamond v. Diehr*, 450 U.S. 175, 188-89, 209 USPQ 1, 9 (1981) ("In determining the eligibility of respondents' claimed process for patent protection under § 101, their claims must be considered as a whole. It is inappropriate to dissect the claims into old and new elements and then to ignore the presence of the old elements in the analysis. This is particularly true in a process claim because a new combination of steps in a process may be patentable even though all the constituents of the combination were well known and in common use before the combination was made.").

The Office Action explicitly says that the above discussed specific and critical claim elements will not be given any weight in reviewing the claims against the prior art. This would be a very significant error. Disregarding explicit claim elements is clearly prohibited not only under the M.P.E.P. §2106, but also under the Supreme Court decision in *Diamond v. Diehr*. The rejection under 35 U.S.C. §102 should be withdrawn.

In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed Cir. 1983) and *In re Lowrey*, 32 F.3d 1579, 1582-83, 32 USPQ2d 1031, 1034 (Fed. Cir. 1994), both of which is cited in the Office Action, do not apply to the present case, as those cases are directed at a very different issue, namely, the consideration of claims directed at “printed

matter." The printed matter cases are not applicable to the present application. (Also, it is noted that in both those cases, the Court of Appeals reversed the rejection of claims that encompassed allegedly "descriptive matter".)

"To be anticipating, a prior art reference must disclose 'each and every limitation of the claimed invention[,] . . .must be enabling[,] and [must] describe… [the] claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.' *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed Cir. 1994)." *Helifix Ltd. V. Blok-Lok, Ltd.*, 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000). Gould does not disclose, enable, describe, or suggest the claimed invention. The claims are in compliance with 35 USC §102, and withdrawal of the rejection is requested

E. Rejection under 35 USC §103

Claims 189-193, 208, 217, and 224 are rejected under 35 USC §103 as being unpatentable over Gould, U.S. Patent 5,966,700 in view of Zandi, U.S. Patent 5,966,699. (Office Action at p. 9).

Claims 194-200, 202, 205-207, 209, 211, 214, 216, 218-223, 226-238, 240, 242-251, 299, 300 and 307-309 are rejected under 35 USC §103 as being unpatentable over Gould, U.S. Patent 5,966,700 in view of Zandi, U.S. Patent 5,966,699, and further in view of Tengel, U.S. Patent 5,940,812. (Office Action at p. 11).

The present invention is summarized in the specification at [0016] as:

> “a data processing system that provides an efficient market for: (1) the provision of loans and lines of credit from lenders to those seeking loans and lines of credit (the "primary" or "retail" market), and (2) the trading of existing loans between loan pool traders (in the "secondary" or "wholesale" market). In particular, the data processing system provides an efficient market that not only invites lenders, loan seekers, and loan pool traders to patronize the system, but that induces them to patronize it as well.”

In particular, the claimed invention induces participation by rewarding the participant in the systems intermediation services with transaction credits for participation in a first sector or market (such as a market of origination of mortgages) that can be used to pay for market data/information; or to pay for transactions in a second sector or market (such as a secondary market for sale of mortgage securities).

The §103 rejection in the Office Action is an example of improper “hindsight” analysis, using the disclosure of the present invention to assemble an obviousness rejection from fragments of ideas in prior art references. A fair reading of the disclosures of the cited references simply does not disclose or suggest the claimed invention. There is no suggestion in any of the prior art that it would be appropriate or desirable to combine them. The combination of references does not even give rise to a prima facie basis for a conclusion of obviousness; in fact, a close review of the references clearly leads to the conclusion that the present invention is nonobvious.

In particular, and as noted above, Gould discloses a computer system for sharing of mortgage application data from a mortgage originator to a funding institution such as a Federal Home Loan Bank, with concurrent management of the allocation of mortgage

pool risk between the mortgage originator and the funding institution. Gould does not disclose any type of transaction fees associated with use of the system, or any types of credits that can be earned by use of the system, or using earned credits in a second sector or market or to purchase information. Gould discloses that the system can be used by the mortgage originator to access “rate and fee schedules”, which are mortgage rates and fees from funding institutions (Col. 7, lines 11-20). The “rate and fee schedules” of Gould are mortgage rates and fees, not *credits for transaction fees*.

Zandi discloses an electronic loan origination system in which a consumer applicant submits data to a computer system via a computer network, which computer system reviews and authorizes the consumer’s application if it meets specified criteria, and conducts a reverse auction in which lenders offer different mortgage packages to the consumer applicant. Zandi has long been of record in this case and is only concerned with loan origination, involving the consumer and lenders interacting via an electronic system. This is the primary market or sector. Zandi makes no mention of trading or auctioning loans on the secondary market. Further, Zandi fails to disclose the use of transaction credits to reduce fees for information or for transactions in a secondary market. The sections of Zandi cited in the Office Action, col. 6, lines 1-59 and col. 7, line 62 to col. 8, line 65, disclose much information gathered and handled by the system but fail to disclose any type of incentive to use the system to obtain reduced transaction fees or information fees.

Tengel also discloses an electronic loan origination system in which a consumer applicant submits data to a computer system via a computer network, which computer system reviews the consumer's application, and if it meets specified criteria, the consumer is informed of available loans from participating lenders. If a consumer selects a lender's mortgage product, an application is created and transmitted to the lender. Tengel, like Zandi, is only concerned with loan origination, involving the consumer and lenders interacting via an electronic system. This is the primary market or sector. Tengel makes no mention of trading or auctioning loans on the secondary market. Further, Tengel fails to disclose the use of transaction credits to reduce fees for information or for transactions in a secondary market. The sections of Tengel cited in the Office Action (Col. 4, lines 46-64; col. 5, line 12-col. 6, line 61; col. 5, lines 12-19; col. 7, lines 6-19; col. 9, lines 32-65, FIG. 6, col. 6, line 42-col. 7, line 38; col. 8, lines 19-27; col. 7, lines 50-67; col. 8, lines 1-18; col. 9, lines 32-65 and FIG. 6, etc. disclose loan origination methods in which the consumer and lenders pursue a motgage application.

There is no disclosure or suggestion in Gould of a method of intermediation in which users are provided with an incentive to use the system to obtain reduced transaction fees in a secondary market or reduced information fees. As such, Gould does not provide an enabling written description disclosing or suggesting "each and every limitation of the claimed invention" *Helifix Ltd. V. Blok-Lok, Ltd.*, 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000).

Gould in combination with Zandi does not provide an enabling written description disclosing or suggesting each and every limitation of the claimed invention. This is corroborated by the Office Action itself, at page 11, where it is stated that Gould and Zandi ***fail to disclose*** the first sector being an origination market for the loans or lines of credit, and the second sector being a wholesale secondary market on which the loans or lines of credit are traded.

Gould in combination with Zandi and Tengel does not provide an enabling written description disclosing or suggesting each and every limitation of the claimed invention.

In accordance with the Examiner's suggestion (Office Action, at 19) Applicant has submitted new claims 313-322 in the same format and claim structure as the claims of issued U.S. Patent 6,594,635. Applicant's new claims 313-322 are clearly patentable over the cited art as already recognized by the Examiner, because they define the invention in terms already considered acceptable by the USPTO.

In the same way, new claims 323-331, which are similar in format and structure to the suggested new claims 313-322 (omitting claims 316 and 318) but in which claim 323 and dependent claims are modified to more closely align with language from claim 187, are also patentable because they define the invention over the cited art as already recognized by the Examiner, because they define the invention in terms already considered acceptable by the USPTO.

Obviousness is a legal conclusion based on underlying facts of four general types, all of which must be considered by the trier of fact: (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) any objective indicia of nonobviousness. *See Graham v. John Deere Co.*, 383 U.S. 1, 17-18 [148 USPQ 459] (1966); *Continental Can Co. USA, Inc. v. Monsanto Co.*, 948 F.2d 1264, 1270, 20 USPQ2d 1746, 1750-51 (Fed. Cir. 1991); *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1566-68, 1 USPQ2d 1593, 1594 (Fed. Cir. 1987).

The obviousness rejection should be withdrawn in this case because of the differences between the claimed invention and the prior art; and the objective indicia of nonobviousness.

The §103 rejections over Gould, or Gould in view of Zandi, or Gould in view of Zandi and Tengel, characterize prior art references using the claim language present in the application being examined. To do so is to fall into the trap of an improper "hindsight" analysis, using the disclosure of the present invention to assemble an obviousness rejection. The rejections essentially are an argument that a person of skill in the art would necessarily make the creative leaps which are the foundation of the claimed invention. "Determination of obviousness cannot be based on the hindsight combination of components selectively culled from the prior art to fit the parameters of the patented invention." *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 546, 48 USPQ2d 1321, 1329 (Fed. Cir. 1998). There must be a teaching or suggestion within the prior art,

within the nature of the problem to be solved, or within the general knowledge of a person of ordinary skill in the field of the invention, to look to particular sources, to select particular elements, and to combine them as combined by the inventor. *See Ruiz v. A.B. Chance Co.*, 234 F.3d 654, 665, 57 USPQ2d 1161, 1167 (Fed. Cir. 2000); *ATD Corp*, 159 F.3d at 546, 48 USPQ2d at 1329.

A fair reading of the disclosures of the cited references simply does not disclose or suggest the claimed invention. The combination of references does not even give rise to a prima facie basis for a conclusion of obviousness; in fact, a close review of the references clearly leads to the conclusion that the present invention is nonobvious.

In addition, in this case, there is a substantial amount of objective indicia of nonobviousness. Objective indicia of nonobviousness includes: "...commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented." *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 [148 USPQ 459] (1966).

Applicant's invention has already demonstrated the following objective indicia of nonobviousness:

(1) Commercial success: The Patent Owner licensed issued U.S. Patent 6,594,635 for a substantial payment and steps to develop a commercial implementation were pursued by the licensee. This fact supports the nonobviousness of the invention, especially as set forth in new claims 313-331.

(2) Long felt but unsolved needs: The need for market transparency is undeniable in view of the near-bankruptcy, followed by U.S. Government takeover of Bear Stearns, Freddie Mac, Fannie Mac, AIG, and Washington Mutual, and the bankruptcy of Lehman Brothers Bank, due to inaccurate pricing of the risk in subprime mortgage backed securities; the stock market has tanked; credit markets are frozen, the economy is teetering on the brink or a depression, and the U.S. Congress is today planning on passing a $700 billion financial industry bailout which could create new tax burdens for decades to come.

The present invention is a real world solution that would help to avoid a repeat of the problems now being experienced by the United States financial system. The claims of the present application are all directed systems that provide incentives for market participants to disclose pricing and risk by giving them credits against fees or transactional data, which, if it had been in widespread use, would have helped avert many of the current problems in the financial markets. The present invention is directed at mechanisms for price discovery in loans, lines of credit, insurance, reinsurance and markets for related financial products. There is a very clear need for this type of market transparency that has not been solved by the financial industry.

As noted above, new claims 313-331 following the structure of U.S. Patent 6,594,635 should be allowable as indicated in the Office Action at p. 19.

In the same way, claims 187-200, 202, 205-209, 211, 213, 214, 216-238, 240-251, 299, 300 and 304-312, along with withdrawn claims 186 and 252-263 and 301-302,

and 304 should be allowed. The claims define a method of intermediation in which users are provided with an incentive to use the system to obtain reduced transaction fees in a secondary market or reduced information fees.

In particular, claim 187 is directed at "*providing computerized intermediation services* according to the pricing schedule" (claim 187, line 10) in two sectors, namely origination and secondary trading of a financial product; "*the schedule providing credits for transaction fees paid by a party for intermediation of transactions in a first sector for redemption against fees payable by the party for intermediation of transactions in a second sector*". These elements are neither disclosed nor suggested by any of Gould, Zandi, or Tengel, nor the combination thereof, and the rejection under 35 U.S.C. §103 of claim 187, and claims 188-200, 202, 205-209, and 211 dependent thereon, should be withdrawn.

Claim 213 is directed at a *data processing system* to provide intermediation data processing services *which routines record credits for tranaction fees for intermediation of transactions in a first sector for redemption against fees payable by the party for intermediation of transactions in a second sector.* These elements are neither disclosed nor suggested by any of Gould, Zandi, or Tengel, nor the combination thereof, and the rejection under 35 U.S.C. §103 of claim 213, and claims 214, 216-224, and 307 dependent thereon, should be withdrawn.

Claim 225 is directed at a *method of providing intermediation services* in which information is captured in providing the intermediation services and offered *for sale to*

parties conducting transactions in the second sector, some of the information being captured in providing the intermediation services in the first sector, the offering being carried out according to a pricing schedule generated to provide price reductions for the information as fees increase for intermediation services. These elements are neither disclosed nor suggested by any of Gould, Zandi, or Tengel, nor the combination thereof, and the rejection under 35 U.S.C. §103 of claim 225, and claims 226-238, 240 and 309 dependent thereon, should be withdrawn.

Claim 241 is directed at a *data processing system programmed to provide intermediation data processing for transactions in a class of financial products in distinct first and second sectors, the first and second sectors respectively being origination and secondary trading of products of the class among market participants and to provide access to information to parties conducting transactions in the second sector and to record charges for the access, some of the information being captured in providing intermediation services in the first sector and offered under a pricing schedule generated to provide price reductions for the information as fees increase for the intermediation services provided for transactions in the first sector.* Dependent claim 243 specifies: to *record a portion of fees recorded for the intermediation of transactions in the first sector as credits for redemption against transaction fees for transactions in the second sector.* Dependent claim 245 specifies: "*to record a portion of fees recorded for the intermediation of transactions in the first sector as credits for redemption against transaction fees for transactions in the second sector*".These elements are neither disclosed nor suggested by any of Gould, Zandi, or Tengel, nor the combination thereof,

and the rejection under 35 U.S.C. §103 of claim 241, and claims 242-251, and 308 dependent thereon, and particularly as to claim 243 and 245 and claims depedent thereon, should be withdrawn.

Claims 187, 188, 213, 241, 243, and 245 specify that the transaction credits are earned in connection with transactions in a first sector and are applied as credits for purchase of *transaction services in a second sector* (claims 187, 213, 243, 245) or for information (claims 188, 241). There is no or suggestion disclosure in Gould, Zandi, or Tengel of earned transaction credits in one sector being usable in a different sector or transaction to obtain a price discount. There is no disclosure or suggestion in Gould, Zandi, or Tengel of *credits for transaction fees* or *credits for redemption against transaction fees* as specified in claims 187, 213, 243, 245. There is no disclosure or suggestion in Gould, Zandi, or Tengel of pricing schedule providing price reductions for the information as fees increase for intermediation services provided for transactions as specified in claims 188 and 241. There is no disclosure or suggestion in Gould, Zandi, or Tengel of pricing schedule providing price reductions for the information as fees increase for intermediation services provided for transactions as specified in claims 188 and 241.

In the same way, and for the same reason, withdrawn claims 186 and 252-263 and 301-302, and 304 should be rejoined and allowed.

The claimed invention is not obvious in view of the art of record. None of the cited art discloses, enables, describes, or suggests the claimed invention.

The claims are in compliance with 35 USC §102, §103, and §112, and withdrawal of the rejection is requested. The Examiner is invited to call the undersigned at the number given below, if it can in any way expedite prosecution.

Respectfully submitted,

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